

October 13, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-31090
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

CHARLES ELGIN STANLEY

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 3:01-CR-30013-ALL

Before KING, Chief Judge, and WIENER and DeMOSS, Circuit Judges.

PER CURIAM:*

Charles Stanley appeals from the district court's revocation of his supervised release for failure to pay court-ordered restitution for child support payments. Stanley argues that the district court erred in revoking his supervised release because he is indigent. He further argues that the court's revocation violates his right to Equal Protection under the Fifth Amendment.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

The Government argues that, due to Stanley's release and the fact that he is no longer subject to any further term of supervised release, Stanley's appeal is moot.

"Whether an appeal is moot is a jurisdictional matter, since it implicates the Article III requirement that there be a live case or controversy." Bailey v. Southerland, 821 F.2d 277, 278 (5th Cir. 1987); see Spencer v. Kemna, 523 U.S. 1, 7 (1998). Because the record reflects that Stanley has been released and is not subject to any term of supervised release, there is no case or controversy for this court to address. Cf., United States v. Gonzalez, 250 F.3d 923, 928 (5th Cir. 2001).

APPEAL DISMISSED AS MOOT.